

**BOARD OF SUPERVISORS
TRANSPORTATION & LAND USE COMMITTEE
ACTION ITEM**

SUBJECT: ZOAM 2007-0004, Farm Markets in Various Zoning Districts and Minimum Acreage Requirements for Agriculture, Horticulture and Animal Husbandry Uses

ELECTION DISTRICTS: County-wide

CRITICAL ACTION DATE: At the Pleasure of the Board

STAFF CONTACTS : Michelle Lohr, Zoning Administration

RECOMMENDATIONS:

Planning Commission: At the December 1, 2009 work session, the Planning Commission voted 9-0 to forward ZOAM 2007-0004 to the Board of Supervisors with a recommendation of approval, subject to the changes shown in the proposed text dated November 24, 2009 and December 1, 2009.

Staff: Staff recommends that the Board of Supervisors approve ZOAM 2007-0004, as amended by the Planning Commission, with certain grammatical, spelling and punctuation revisions as noted. (Attachment 1)

BACKGROUND

On February 17, 2009, the Board of Supervisors adopted a Resolution of Intent to Amend the Revised 1993 Loudoun County Zoning Ordinance (Zoning Ordinance) to add Farm markets without agricultural production on-site, as a special exception use within the AR-1, AR-2, JLMA-1, JLMA-2, JLMA-3, JLMA-20, TR-10, TR-3, TR-2, TR-1 zoning districts and to reduce the minimum acreage requirements for agriculture, horticulture, and animal husbandry uses. The amendments propose to: (1) amend Tables 2-102, 2-202, 2-1003, 2-1103, 2-1203, 2-1303, 2-1402, 2-1502, 2-1602 and 2-1702 to add a new use type, Farm markets (off-site production), as a special exception use within the Use Category of "Retail Sales and Service" for the AR-1, AR-2, JLMA-1, JLMA-2, JLMA-3, JLMA-20, TR-10, TR-3, TR-2, TR-1 districts, (2) amend Article 8, *Definitions*, including, without limitation, amending the existing definition of "Animal Husbandry" and establishing new definitions for "Farm Market (off-site production)" and "Livestock" and "Pet"; (3) amend Additional Regulations Section 5-603, *Farm markets*, to ensure consistency in regulations and terminology and establish new maximum building size, parking, landscaping and buffering standards; (4) amend Additional Regulations Section 5-626, *Agriculture, Horticulture and Animal Husbandry*, to reduce and/or eliminate minimum acreage requirements under certain circumstances; (5) amend Section 6-700, *Site Plan Review*, to clarify when site plans or rural sketch plans are required, and (6) amend such other sections of the Zoning Ordinance as necessary to implement and maintain consistency with the foregoing amendments.

The Planning Commission conducted a public hearing on October 15, 2009. Four people spoke in favor of the amendment and one spoke in opposition. The Commission held work sessions on November 12, 2009 and December 1, 2009 to discuss the proposed amendments.

At the December 1, 2009 work session, the Planning Commission voted 9-0 to send ZOAM 2007-0004 to the Board of Supervisors with a recommendation of approval, subject to the changes to the proposed text made at the December 1st meeting. The revised language is included in Attachment 1. (Staff has noted some grammatical, spelling and punctuation corrections which are indicated by double underline.)

On January 11, 2010, the Board of Supervisors held a public hearing at which one person spoke against the amendments associated with the reduction of the minimum acreage requirement for agriculture, horticulture and animal husbandry. During discussion at the conclusion of the public hearing, Board members expressed concern regarding (1) the landscaping requirements proposed for the proposed Farm market (off-site production) use, (2) the lack of guidance in the amendments to address the maximum number of animals that would be permitted based on acreage, (3) the specific districts that are proposed to include the Farm Market (off-site production) use, (4) the use of percentage of products offered for sale as a means of measurement rather than the current measurement of gross sales receipts and (5) whether the Board could consider reducing the required percentage of products required to be from Loudoun County from 25% to a lesser percentage such as 15%. A question was also raised regarding the history of the proposed amendments to the Farm Market use.

At the conclusion of the Board's public hearing, the Board voted 9-0 to forward ZOAM 2007-0004 to the Transportation and Land Use Committee for further discussion on the proposed amendments and specifically the issues addressed below.

ISSUES:

1. ***Landscaping, buffering and screening requirements proposed for Farm market (off-site production).*** The draft proposes amending Section 5-603, the Additional Regulations for Farm Markets to reference the buffering and landscaping requirements of Section 5-653 for the Farm Market (off-site production) use. [Attachment 2] Section 5-653 requires a 50 foot Type 3 buffer against parcels 4 acres or less in size with a residence within 300 feet of the adjacent property line. As the use is proposed to be permitted by special exception, the Board of Supervisors could impose conditions to increase the landscaping and buffering requirements on a case by case basis.
2. ***Inclusion of guidance regarding the number of animals that can be supported on a parcel.*** At the public hearing, discussion occurred regarding the lack of guidance within the proposed ordinance as to the number of animals that a property owner could expect to be permitted on a given parcel. The Planning Commission during its review of the amendments, considered inclusion of a chart specifying the maximum number of animals that would be permitted per animal unit. This option of the proposed text discussed at the November 12, 2009 worksession included: [Attachment 3]
 - a. Allowing one animal unit on a parcel of less than 5 acres with at least 2 usable acres (land not encumbered by floodplain, steep slopes and other environmental constraints) in the quantities indicated in the chart.

- b. Allowing more than one animal unit on a parcel of less than 5 acres with at least 2 usable acres with an approved Conservation Farm Plan.
- c. Allowing animals on less than 5 acres with less than 2 usable acres with a Conservation Farm Plan.

After discussing the issue, the Planning Commission decided against including such a table in the ordinance. Instead, the draft text allows animal husbandry with a minimum of 3 acres. Parcels of less than 3 acres can establish an animal husbandry use with an approved Conservation Farm Plan with best management practices supporting the maximum number of animals proposed for the subject property. Although no minimum usable acreage amount is specified, review of the Conservation Farm Plan shall take into consideration the type and construction of any wells, septic fields and reserve septic fields and environmental features such as steep slopes, rock outcroppings and streams.

- 3. ***Inclusion of AR-1 and AR-2 zoning districts in amendments to add Farm Market (off-site production).*** Concern was raised at the Board public hearing that the Farm Market (off-site production) use should be concentrated in areas around the villages and towns and not in the AR-1 and AR-2 districts because of the potential need for site improvements such as parking, commercial entrances, and turn lanes. The Planning Commission discussed the possible elimination of the JLMA 1, 2, and 3 districts from the districts that would permit the Farm Market (off-site production) use because of the relatively small parcel size of these districts and their residential nature, but did not actually vote to remove those districts from the list of districts proposed for the amendments.
- 4. ***Requirement for 25% of the products to be from Loudoun County.*** Discussion occurred at the Board public hearing as to whether the requirement for 25% of the products to be produced within Loudoun County is an appropriate percentage. With the December 3, 2007 amendments to the Zoning Ordinance, the 25% requirement for Farm Market products was amended from 25% of the products produced on site to 25% of the products produced within the County. The currently proposed amendments maintain this 25% requirement for the new Farm Market (off-site production) use.
- 5. ***Measurement method to determine that 25% of the products are from Loudoun County.*** Discussion occurred at the public hearing regarding the method of measurement used to determine the percentage of goods produced on site, or from other property owned by the operator (in the case of the Farm Market use) or the percentage of products from Loudoun County (in the case of the Farm Market (off-site production)). The existing definition of Farm Market states that 25% of the products sold must be produced within the County. The Additional Regulations of Section 5-603 currently states that 25% of the gross sales receipts must be derived directly from products produced on site. The intent of the amendment is to make the definition and the additional regulation consistent. The draft amendment states that 25% of the products offered for sale must be from Loudoun County (and in the case of the Farm Market use 25% of the products offered for sale must be produced on site). The use of the measurement of products offered for sale would take into account product spoilage.
- 6. ***Background regarding the proposed amendments to the Farm Market use.*** A question was raised at the Board public hearing as to the history of the proposed amendments. The

proposal to amend the zoning ordinance to permit Farm Markets without on site production by special exception was initiated when a business that had been selling produce, among other products, on a Rural Commercial (RC) zoned parcel within the County on the east side of the Town of Hamilton applied for a zoning permit to relocate the business to Joint Land Management Area-2 (JLMA 2) zoned parcel within the County on the west side of the Town of Hamilton. A Farm market with off-site production is not permitted in the JLMA-2 zoning district. The Board of Supervisors adopted an Intent to Amend the Zoning Ordinance to consider adding the Farm Market (off-site production) use in the JLMA 2 zoning district, among other districts. During review of the proposed amendments, the Planning Commission determined that the zoning districts proposed to add the Farm market with off-site production should be re-examined and alternate districts were proposed, prompting the need for a new Resolution of Intent to Amend the Zoning Ordinance to address the additional zoning districts proposed. Subsequent to the adoption of the Resolution of Intent to Amend the Zoning Ordinance, a restaurant has been constructed on the property. Although there may no longer be a need to amend the zoning ordinance to permit the Farm Market without off-site production for the case that started the process, it is important to note that some of the proposed amendments clarify discrepancies between the definition of Farm Market and the Additional Regulations for Farm markets.

FISCAL IMPACT: There are no fiscal impacts associated with this zoning ordinance amendment.

ALTERNATIVES:

1. The Transportation Land Use Committee can forward ZOAM 2007-0004 to the Board of Supervisors with a recommendation for approval.
2. The Transportation and Land Use Committee can take no action regarding ZOAM 2007-0004.

SUGGESTED MOTIONS:

- 1) I move that the Transportation and Land Use Committee forward ZOAM 2007-0004 to the Board of Supervisors with a recommendation to adopt the proposed amendments as set forth in Attachment 1;

or

- 2) I move an alternate motion.

ATTACHMENTS

No.	Description	Page
1.	Recommended Text, Revised through December 1, 2010 by Planning Commission with grammatical, spelling & punctuation revisions by Staff	A1-A6
2.	Section 5-653, Landscaping Standards for Specific Uses	A7
3.	Portion of .Draft Text dated November 5, 2009 for November 12, 2009 Planning Commission Worksession	A8-A15